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Idaho Conservation League

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Ms. Linda Helm
Small NEPA Coordinator
Nez Perce-Clearwater National Forests Supervisor's Office
104 Airport Road
Grangeville, Idaho 83530

May 30, 2013

Re: Idaho Conservation League scoping comments on the May 1, 2013 Small NEPA projects

Dear Ms. Helm:

Since 1973, the Idaho Conservation League has been Idaho's voice for clean water, clean air and wilderness—values that are the foundation for Idaho's extraordinary quality of life. The Idaho Conservation League works to protect these values through public education, outreach, advocacy and policy development. As Idaho's largest state-based conservation organization, we represent over 25,000 supporters, many of whom have a deep personal interest in protecting human health and the environment.

In general, we have significant concerns with a number of the placer exploration projects and based on the similarity of these projects, along with dozens of others that have been implemented over the course of the past several years, we feel that the cumulative effects threshold has been reached and that more in-depth analysis is warranted. Specifically, we feel that a Small Scale Programmatic Mining EIS is appropriate to consider the effects, alternatives and measures needed to management numerous minerals exploration projects occurring in the Red River and Slate Creek Ranger Districts.

Attached, please find our comments in response to both Part A and Part B projects detailed in the letter dated May 1, 2013, soliciting comments on a number of proposed projects on the Nez Perce-Clearwater National Forests. We would also like to remain on the mailing lists for all these projects. Please feel free to contact me if you have any questions about our comments.

Sincerely,

Jonathan Oppenheimer
Senior Conservation Associate

Idaho Conservation League scoping comments on Small NEPA projects (May 1, 2013 letter)

Placer & Exploration Projects

The following comments apply to:

1. Bagley Creek Placer Exploration
2. Baldy Creek Placer Exploration
3. Heritage Gulch Placer Exploration
4. Holy Grail Placer Exploration
5. Orogrande 2013
6. Bear Track Placer Exploration
7. Any other placer, mining, exploration or development proposals

General

Although the 1872 Mining Law establishes a legal framework for mineral location and entry on the public lands, the Forest Service is not obligated to approve a plan of operations if the plan does not fulfill the requirements of all other applicable laws and regulations.

For Example, if a mining operator wishes to discharge any point sources of pollution, such as sediment, tailings, or effluent, then the operator may be required to obtain an NPDES permit, section 404 dredge and fill permit, or other applicable permits before the Forest Service can certify the operation as provided by Section 401 of the Clean Water Act.

This requirement stems from a recent court ruling, *Hells Canyon Preservation Council v. Haines*, 2006 WL 2252554 (D. Or. 2006), which ruled that suction dredges and placer operations constitute point source discharges under the Clean Water Act. Stream Channel Alteration permits from the Idaho Department of Water Resources do not fulfill this obligation—only applicable state laws. Therefore the operator must obtain an NPDES permit from EPA, prior to any discharge in association with mining operations. Permits for wastewater land application may also be required.

Similarly, the plan of operations must fulfill all applicable legal and regulatory requirements of the Endangered Species Act (ESA), National Forest Management Act

(NFMA), Federal Lands Management Policy Act (FLMPA), and any other applicable laws and regulations governing the use of National Forest System lands and the disposal of minerals.

The Forest Service and the operator will need to consult with the U.S. Fish and Wildlife Service and NOAA Fisheries to ensure that the plan of operations will not result in the harm, harassment, or direct or indirect take of listed species.

Appropriate Level of Analysis

"A threshold question in a NEPA case is whether a proposed project will 'significantly affect' the environment, thereby triggering the requirement for an EIS [Environmental Impact Statement]." *Blue Mountains Biodiversity Project*, 161 F.3d at 1212 (citing 42 U.S.C. § 4332(2)(C)). "As a preliminary step, an agency may prepare an EA [Environmental Assessment] to decide whether the environmental impact of a proposed action is significant enough to warrant preparation of an EIS." Id. (citing 40 CFR § 1508.9). "The purpose of an EA is to provide the agency with sufficient evidence and analysis for determining whether to prepare an EIS or to issue a [Finding of No Significant Impact]." *Metcalf v. Daley*, 214 F.3d 1135, 1143 (9th Cir. 2000) (citing 40 CFR § 1508.9). "Because the very important decision whether to prepare an EIS is based solely on the EA, the EA is fundamental to the decision-making process." Id.; see also 40 CFR § 1500.1(b); Idaho Sporting Congress, 137 F.3d at 1151. "[T]he public must be given an opportunity to comment on draft EAs and EISs." *Anderson v. Evans*, 314 F.3d 1006, 1016 (9th Cir. 2002); *Citizens for Better Forestry v. U.S. Dept. of Agriculture*, 341 F.3d 961, 970 (9th Cir. 2003).

The Forest Service is required under NEPA to prepare an environmental impact statement ("EIS") for any "major federal action significantly affecting the quality of the human environment." 42 U.S.C. § 4332(2)(C). The agency must consider direct, indirect, and cumulative environmental impacts of the proposed action. 40 C.F.R. § 1502.16; 40 C.F.R. § 1508.8; 40 C.F.R. § 1508.25(c). Direct effects are caused by the action and occur at the same time and place as the proposed project. *Id*. § 1508.8(a). Indirect effects are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. *Id*. § 1508.8(b). Both types of impacts include "effects on natural resources and on the components, structures, and functioning of affected ecosystems," as well as "aesthetic, historic, cultural, economic, social or health [effects]." *Id*. Cumulative effects are defined as the impacts resulting from the incremental impact of the proposed action when added to other past, present, and reasonably foreseeable future actions. 40 CFR § 1508.7. Cumulative impacts can

result from individually minor but collectively significant actions taking place over a period of time. *Id.*

A number of these projects are located in the same watersheds or in very close proximity to one another. For example, the Rex Placer, Max #2 Placer, and Pioneer Gulch Plans of Operations are all located in the Ozark Creek watershed and include a combined 49 test pits. Similarly, 56 test pits would be excavated in the Meadow Creek watershed if the Bear Track #2 and Steamboat Placer Plans of Operations are approved; and 39 test pits would be excavated in the Newsome Creek drainage if the Heritage #2 and Newsome Plans of Operations are approved. The cumulative effects analysis for each project must take into account all other past, present, and reasonably foreseeable future mining and exploration projects, which might collectively contribute to cumulative environmental effects when taken with an individual plan of operations.

Orderly Steps in the Development of Mines

The Forest Service may limit the scope of a Plan of Operations to match the appropriate step in the normal development of a mine by a prudent person. The agency is not obligated to approve a proposed Plan of Operations if it does not follow the next logic step in the orderly development of a mine. The orderly steps are outlined in the Forest Service Handbook at FSH 2809.15, Sec. 11. The actions and expenditures of labor and resources by a person of ordinary prudence using industry-accepted techniques to prospect, explore, develop, produce, abandon or reclaim a valuable mineral deposit using methods, structures and equipment appropriate to the geological terrain, mineral deposit, and stage of development and reasonably related activities include:

Prospecting - the preliminary searching for outcrops or surface exposures of mineral deposits. At this earliest stage of mining activity, it is characterized by activities that result in low impact to surface resources, such as driving on existing roads, hiking or riding on trails or cross country, field and geologic reconnaissance mapping, taking small samples by hand or with small highly portable tools, stream sediment sampling, panning of placer samples or small-scale sluicing, soil sampling, claim staking, and using portable geophysical equipment.

Exploration - the second stage in the logical progression of mining activities. It usually occurs once a geologically favorable target area, with moderate to high mineral potential, is identified through prospecting, but subsurface information is still needed to determine the presence and extent of any mineral resources and whether any of this constitutes economic reserves. Its purpose is to narrow the search for a mineral

resource, better define a target, and ultimately to discover a valuable mineral deposit that can be mined, removed, and marketed at a profit.

Development - the stage of mining activity that occurs once exploration drilling and other activities have identified a valuable mineral deposit (that is, ore grade and a significant reserve is established), but the dimensions of the ore deposit are not yet fully delineated (it may be "open" on several sides), and all the parameters necessary for mine design and production are not yet known or understood. The purpose of development is to delineate the ore body, establish grade and reserves with a high degree of probability so economics of the deposit can be fully evaluated, and provide the claimant/operator with information necessary to make a decision as to when and whether to invest the often sizable capital expenditure necessary to progress to the next stage of mining activity—production.

Production - The most prevalent activities at this stage are mining, removing, and processing of previously discovered and developed ore deposit and marketing a product. The quantity and quality of the ore at this stage is known with a high level of certainty, and the operator has made a firm commitment through capital expenditures and engineering design and construction.

Abandonment and Reclamation - Reclamation should occur at all stages of mining activity where surface disturbance results. However, abandonment and final reclamation occur after production has ceased because the orebody mined out. Long-term mine closure may result from changing economics, such as declining metals prices or operating cost increases. Regardless of the cause, when production activities have ceased or significantly declined and are expected to remain so for the long term, equipment, structures, and other facilities, as they are no longer needed, should be removed.

With each project, the environmental analysis and decision document should describe why an approved Plan of Operations is the next orderly step in the development of a mine by a prudent person. A number of the proposed Plans of Operations appear to circumvent one or more steps in the normal orderly development of a mine. Little or no explanation of prior prospecting or exploration activities has been provided to show that constructing adits, new roads, authorizing motorized access or undertaking actions normally implemented during the development of a mine, are necessary or reasonable at this stage in the game.

Discovery of a Valuable Mineral Deposit

A discovery of a valuable mineral deposit is the essential requirement for a valid mining claim. *U.S. v. Coleman*, 390 U.S. 599 (1968); U*.S. v. Davy Lee Waters, et al.*, 146 IBLA 172, 182 (1998); *U.S. v. Grigg*, 8 IBLA 331, 336 (1972). As the IBLA stated in *U.S. v. Garner*: "We emphasize that discovery is the sine qua non for a valid mining claim." 30 IBLA 42, 65 (1977).

Federal statute does not describe what constitutes a valuable mineral deposit; therefore the government has adopted the "prudent man rule." This rule determines value based on whether or not a person will consider investing time and money to develop a potentially viable mineral deposit. This rule was first stated by the DOI in 1894, in the adjudication of *Castle v.Womble*, 19 L.D. 455 (1894), the holding of which states:

> "…where minerals have been found and the evidence is of such a character that a person of ordinary prudence would be justified in the further expenditure of his labor and means, with a reasonable prospect of success in developing a valuable mine, the requirements of the statute have been met."

The U.S. Supreme Court approved this definition in *Chrisman v. Miller*, 197 U.S. 313 (1905).

The Department of Interior Solicitor issued an opinion in 1933, noting the need for a distinct showing that the mineral could be mined, removed, and marketed at a profit. In 1968, the U.S. Supreme Court approved the opinion in *U.S. v. Coleman*, 390 U.S. 602-603 (1968). The marketability test is supplemental to the prudent man rule and considers deposit economics and market entry. The claimant is required to show a reasonable prospect of making a profit from the sale of minerals from a claim or a group of contiguous claims.

Discovery is required on each claim based on an actual physical exposure of the mineral deposit within the claim boundaries. In *Jefferson-Montana Copper Mines Co.*, 41 L.D. 321 (1912), the Department of Interior established the full test for a lode claim:

> "To constitute a valid discovery upon a lode claim, three elements are necessary:
>
> 1. There must be a vein or lode of quartz or other rock-in-place
> 2. The quartz or other rock-in-place must carry gold or some other valuable mineral deposit
> 3. The two preceding elements, when taken together, must be such that as to warrant a prudent man in the expenditure of his time and money in the effort to develop a valuable mine."

It must be remembered that the test focuses on the prudent person, not the prudent miner, and certainly not the claimant. As the Supreme Court stated in the seminal case of *Chrisman v. Miller*: "The facts which are within the observation of the discoverer, and which induce him to locate, should be such as would justify a man of ordinary prudence, not necessarily a skilled miner, in the expenditure of his time and money in the development of the property." 197 U.S. 313, 322-323 (1905) *quoting* Lindley on Mines § 336 (1st ed.). The Interior Secretary has stated: "It is thus evident that the willingness of a mining claimant, grounded only in the hope of success, to expend time and money in further efforts to develop a mine will not suffice." *U.S. v. Nevitt*, A-30030 (July 28, 1964). As the IBLA stated:

> Finally, the "Prudence" to which reference is made in the "prudent man test" first articulated in *Castle v. Womble*, is measured by the probability of developing a valuable mine as determined by an ordinary man with knowledge and understanding of all of the facts; not by the degree of prudence which a particular claimant exercises in the conservation of his individual economic means.

U.S. v. Mortensen, 7 IBLA 123, 126 (1972).

Regarding the nuts-and-bolts of proving a discovery, the IBLA has defined how a claim should be analyzed to determine the presence (or absence) of a valuable mineral deposit: "Claim validity is determined by the ability of the claimant to show that a profit can be made after accounting for the costs of compliance with all applicable laws . . ." *Great Basin Mine Watch*, 146 IBLA 248, 256 (1999) (emphasis added). The cost figures used by a claimant to prove the existence of a valuable mineral deposit should show that the claimant has a reasonable likelihood of developing a paying mine. *In re Pacific Coast Molybdenum Co.*, 90 ID 352, 361 (1983). *See also*, *U.S. v. Alaska Limestone Corp.*, 66 IBLA 316, 323 (1982) (The focal question in the prudent man test is the development of a valuable mine.).

Costs of production and extraction of a mineral have a direct bearing on whether a prudent person would be justified in expenditure of labor and means. *Converse v. Udall*, 399 F.2d 616, 622 (9th Cir., 1969) *cert. denied* 89 S.Ct. 635 (1969). Both geologic and economic information go towards proving that a claimant has discovered valuable mineral deposits. *Dennis J. Kitts*, 84 IBLA 338, 342 (1985). Finding a valuable mineral on a property is only the "first step" in the prudent person determination. *Foresyth*, 100 IBLA 185, 216 (1988). In addition, the costs of extraction "must be examined" to determine whether the costs of removal and preparation of the minerals for sale is less than the sales price. *Id.* Indeed, operating costs are "as critical to a determination of the practical value of a mining claim as the intrinsic value of the mineral present on the

claim." *U.S. v. Calhoun and Howell*, A-31004 (August 29, 1969), GFS SO-1969-35 (Mining). Therefore, a valid discovery can never be fully proven until the full mining costs are subtracted from the expected revenues.

In addition to production costs, environmental compliance and reclamation costs must also be factored in the claimant's economic analysis in order to prove the existence of a valuable mineral deposit. Since a sufficiently profitable mining operation must be proven for a deposit to be considered valuable, determining the costs of environmental compliance is a necessary precursor towards validating a discovery. *Great Basin Mine Watch*, 146 IBLA 248, 256 (1999); U.S*. v. Pittsburgh Pacific Company*, 30 IBLA 388,405 (1977), *citing U.S. v. Kosanke Sands*, 12 IBLA 282, 298-99 (1973). As the Board in *Pittsburgh Pacific* recognized, environmental cost factors may be significant enough to "stand in the way of a profitable mining operation" and therefore, must be addressed by the claimant. *Id*. at 393.

Surface Use Determination

If the proposed Plan of Operations is unnecessarily and unreasonably destructive to surface resources and damaging to the environment, the Forest Service should seek to modify the Plan of Operations to minimize effects to National Forest System Resources as required by 36 CFR § 228.1. According to the Forest Service Handbook, when assessing whether an operation is unnecessarily and unreasonably damaging national forest resources, some things to consider include:

1. Site-specific circumstances of the operation being considered and resources affected.
2. Some possible reasonable alternatives to the proposal, and their potential effects compared to the proposal.
3. Standard industry practices; that is, typical approved activities for operations that have similar geographic settings and levels of mineral resource evidence.
4. Any established best management practices for proposed use or similar uses.
5. New research and technology that may present some viable options for minimizing effects on national forest resources.

FSH 2809.15, Sec. 13.9.

Where the authorized officer is unable to agree on appropriate and reasonable modifications to the proposed Plan of Operations and mitigation with the claimant, a Surface Use Determination process should be undertaken. FSH 2809.15, Sec. 11.2. A

qualified minerals examiner should prepare the surface use determination report as described in the Forest Service Handbook. FSH 2809.15, Sec. 13.

Water Quality Protection

In, Hells Canyon Preservation Council v. Haines, 2006 WL 2252554 (D. Or. 2006), the Court ruled that suction dredges and placer mining operations constitute a point source discharge as provided by the Clean Water Act. Any mining operation involving point source discharges of any kind, including but not limited to, placer mining requires an NPDES permit. Permits for wastewater land application are also required. Stream Channel Alteration permits from the Idaho Department of Water Resources do not fulfill any federal permit obligations.

Depending on the location of the facility, other Clean Water Act requirements may apply. For example, if the stream or receiving water is listed for water quality impairment, then the operations must comply with any approved TMDLs. In particular, the operator may not increase the amounts of pollutants for which the receiving water is listed, unless the approved TMDL includes a load allocation specifically for the operation.

If the stream or receiving water meets all water quality standards, then the operator is required to comply with Idaho's Antidegradation Policy at IDAPA 58.01.02.051. Finally, established Guidance for Forest Practices Discharging Sediment into 303(d) List Waterbodies (Idaho Dept. of Environmental Quality, 2004) requires "[i]n relation to Idaho's antidegradation policy, the responsible parties should evaluate and reasonably assure that a project introducing sediment will not cause a reduction in water quality that would impair an existing beneficial use in any individual body within the watershed." These requirements apply to both on- and off-site activities associated with the mining operation.

Threatened and Endangered Species

The Forest Service must submit a biological assessment on all possible threats to listed species, including but not limited to lynx, wolverine, bull trout, Steelhead trout, Chinook salmon and any other listed species. The Forest Service must consult with the U.S. Fish and Wildlife Service and NOAA - Fisheries. No incidental take permits should be authorized in association with these projects.

The Forest Service needs to describe, avoid, and mitigate potential impacts on lynx and wolverine. We are concerned that the increase in human activity, particularly with regard to the continual noise from drilling operations, will displace these, and other species or prevent them from using these areas as corridors.

As such, we encourage the Forest Service to limit the number of entries to the minimum needed and to only allow one drill pad or trenching operation to be active at a time. Similarly, timing restrictions may be necessary to limit impacts to listed fish, particularly during spawning.

Impacts to Roadless Areas

While it is unclear from the scoping notice, we are concerned that some of the proposed projects may have the potential to impact Idaho Roadless Areas. Because this information was not disclosed in the letter of May 1, 2013, if any mining activities are proposed within Idaho Roadless Areas, or if impacts to the roadless resource are anticipated, the Forest Service must rescope the project and disclose the location of the project.

Riparian Habitat and Conservation Area Protection

All operations must comply with the protective standards and regulations stated in the Forest Plan INFISH and PACFISH amendments, concerning mining, road construction, and tree removal. No Forest Plan amendments to suspend these requirements should be considered.

If any discharge from mining activities is anticipated to occur, effects to sensitive, threatened, and endangered species represents an extraordinary circumstance, justifying the preparation of an environmental assessment (EA) or environmental impact statement (EIS). The project analysis and decision document for any project within RHCAs should articulate project design features that demonstrate consistency with the maintaining or improving Riparian Management Objectives contained in the INFISH and PACFISH amendments, and how they will be maintained and restored following project implementation.

We are concerned that the 20’ buffer between the projects and adjacent streams or wetland areas is insufficient. The analysis should detail whether monitoring supports the suggestion that a 20’ buffer is sufficient to avoid direct effects to water quality, wetlands, riparian soils, and/or Riparian Management Objectives.

Hazardous materials

All fuel and solvents need to be properly contained, labeled, and stored outside of Riparian Habitat Conservation Areas. Hazardous materials should be transported in small amounts to minimize impacts if there is a spill. A hazardous material plan needs to be in place in the event of a fuel or solvent leak anywhere along the transportation route. Hazardous wastes including grease, lubricants, oil, and fuels need to be disposed off off-site in an environmentally appropriate manner on a weekly basis. Fuel containment equipment, including chemical absorbers and booms to intercept stream transport need to be on site. All workers need to be trained in the use of this equipment.

Noxious Weeds

Ground disturbance and vehicular traffic will accelerate the spread of noxious weeds. All equipment should be cleaned to dislodge any soil, seeds, and vegetation before entering National Forest System lands. Work crews trained in noxious weed recognition and removal should patrol the project area. Weeds or trash should be removed. These stipulations need to be included in the plan of operations.

Sumps

If sumps are proposed for use, drilling operations should be suspended if the sump approaches capacity to allow infiltration to occur.

Water for drilling and exploration activities

If the operator plans to withdrawal or divert water for their operation, a water right must be sought and obtained from the Idaho Department of Water Resources. The Forest Service should require proof that a water right has been obtained from the Idaho Department of Water Resources prior to approving any plan of operations, or initiating any ground-disturbing activities. The timing of water withdrawal should be defined to avoid impacts to aquatic organisms and sensitive, threatened, and endangered species. Regardless of whether the water source is located on private ground, or on public land, the analysis must consider the impacts. If impacts to listed species are anticipated, consultation with USFWS or NOAA Fisheries should be pursued.

On-Site Living Situation

The Forest Service needs to specify whether mine operators will be living on or off-site with regard to any of these proposals. All garbage must be disposed of appropriately in a timely fashion. To avoid contaminating the area with human feces, a portable toilet river-running style toilet should be located on the site and serviced regularly. To minimize impacts to recreationists and wildlife, operations should be limited to daylight hours and generators should be limited to campground hours. Regularly inspected fire extinguishers and shovels need to be placed in all vehicles. To reduce risks of fires, all on-site burning should be conducted within a fire pan or fire ring. Only combustible materials should be placed within the fire ring. Burning should not be allowed during moderate to high fire risk periods.

Hours of operation

We are concerned about recreational and wildlife impacts in terms of noise and site occupation. Water pumping, trenching and drilling should be limited to daylight hours to reduce impacts on recreationists and wildlife. Seasonal restriction may also be necessary depending on the location of the proposed operation in relation to fish and wildlife species present in the area or their habitats.

Length of operation

All activities need to be completed within one year from issuance of the permit or the bond should be forfeited.

Vehicular Access

The Forest Service should require operators to base all plans of operations off of existing roads or trails. If the plan cannot be reasonably modified to avoid new road or trail construction, then the operator should bear all costs associated with the construction and reclamation of access routes. Cross-country travel should be prohibited and the location of roads must be clearly displayed in NEPA-related correspondence (including scoping notices, decision memos, EAs, etc.).[1]

[1] The Orogrande 2013 project proposes a new 300' temporary road. The map fails to indicate the location of this road, and the scoping notice fails to identify where the road will be located, whether it will cross streams, creeks or wetlands, whether it is located on steep slopes, landslide prone areas, areas with high subsurface erosion potential, etc. As a result it is impossible to determine what the effects might be.

Vehicular access routes should be designed and constructed to Forest Service specifications. Regular oversight of the construction of vehicular access routes should be undertaken by the Forest Service to ensure applicable standards and design requirements are met. The calculation of the bond should factor in the full costs associated with recontouring access routes to match the natural topography and reestablishing native vegetation.

All equipment should be cleaned and inspected before entering National Forest System lands to prevent the spread of noxious weeds and other invasive species. The number of vehicle trips should be limited in such a way as to minimize the effects of motorized vehicles to natural resources. In particular, the number of trips or seasonal limitations should be considered where wildlife security is needed to protect sensitive, threatened, or endangered species.

New or temporary access routes associated with the plan of operations should not be designated for use by the general public. Access should be strictly limited to the operator, so that the effects of motor vehicle use to natural resources will be minimized according to the Forest Service's travel management regulations.

Mitigation

In addition to exploring a reasonable range of alternatives to the proposed action, regulations implanting NEPA require inclusion of "appropriate mitigation measures not already included in the proposed action or alternatives." 40 CFR § 1502.14(f). Moreover, in the final record of decision (ROD), federal agencies are required to "[s]tate whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why they were not. A monitoring and enforcement program shall be adopted and summarized where applicable for any mitigation." 40 CFR § 1505.2(c). Mitigation is defined at 40 CFR § 1508.20(a)-(e):

(a) Avoiding the impact altogether by not taking a certain action or parts of an action.
(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action
(e) Compensating for the impact by replacing or providing substitute resources or environments.

Potential mitigation measures that should be considered for each of the aforementioned placer exploration projects include: limit drilling to the winter on frozen, snow-packed ground; conduct third-party upstream and downstream turbidity monitoring; avoid any drilling during “spring break up”; monitoring of deep and shallow ground water wells in each hydro-geologic subdivision in the project areas; use only NSF/API approved drilling additives; avoid all wetland disturbance, timely plug holes; and preamp existing faults, fractures or potential vectors for groundwater pollution.

Reclamation and Bonding

Forest Service regulations at 36 CFR part 228 require the Forest Service to establish an adequate reclamation bond for mining operations. Bonding costs need to be detailed in the environmental analysis for each alternative.

The bond must be substantive enough to cover the worst possible impacts to the human and natural environment and at a minimum, take into consideration:

- Possible spills of fuels and other hazardous materials
- Impacts to the ecosystem
- Road decommissioning
- Mine drainage treatment in perpetuity
- Monitoring

Bonding costs should be calculated according to Forest Service pricing, including the cost of renting and transporting equipment and wages for all workers and supervisors. Alternatively, a third-party contracted by the Forest Service could calculate the bonding costs. In any event, the operator should not calculate the bonding costs.

The environmental analysis needs to describe the reclamation process and all associated costs in detail. This analysis should include the volume and type of material to be moved, equipment needed, location for stockpiling, and sequence for reclamation.

To the extent practical, reclamation activities should take place concurrently with the mining operation.

Monitoring

We have encountered numerous mining projects that have violated best management practices (BMPs) and operating plans. A formal monitoring plan should be developed in

relation to each of these projects. The monitoring plan should be described in the decision document and the full plan should be included in the project file.

Monitoring should be conducted at specified intervals throughout the mining operation and throughout reclamation. The Forest Service should establish noise limits such that disturbance to surrounding wildlife and property owners is minimized, and require the operator to abide by these limits. Seasonal limitation may also apply, where species-specific habitat needs could be affected by the project.

Orogrande 2013

Specific to the Orogrande 2013 project, we are curious whether this project is associated with the Friday Minerals, and/or Premium Exploration

Bridge Creek and Cook Ranch Trail Restoration

Bridge Creek Trail Restoration

We support efforts to realign and maintain the Bridge Creek 504 Trail in order to address resource concerns and safety issues. We also agree that the use of this trail should be limited to two-wheel motorcycles and non-motorized uses. The steep grades and friable soils along the trail do not lend themselves to sustainable four-wheel or OHV use.

We also recommend that the Forest Service consider seasonal trail restrictions in this area and prohibit motorized use during the spring when the snow is melting and runoff is occurring. In our experience, motorized trails are more susceptible to resource damage when the trail prisms are wet or saturated. Motorized trail use is much more sustainable when the trail prisms have dried out and firmed up.

In addition to the proposed trail maintenance work, we believe that it is necessary to step up enforcement patrols in the Red River and Meadow Creek Areas. As described in our comments on the Draft EIS for the Nez Perce National Forest Travel Management Plan, there are repeated trail closure violations occurring on the trails that access or branch off of the Boundary and Divide ATV trails, including the Bridge Creek Trail. Enforcement patrols are necessary to improve compliance and protect natural resources. If this user group cannot comply with the rules, then it is time to consider closure of the entire Boundary and Divide ATV Trail System to protect resources.

Cook Ranch Trail Restoration

We generally support efforts to address resource and safety issues associated with trails. However, the scoping notice is not clear as to whether or not that trail is open to motorized or non-motorized uses. Furthermore, it is unclear if the designation of the trail would change. Without this information, we are unable to determine whether or not the proposed action will negatively affect wildlife or other resources. We discourage the Forest Service from taking actions that might open or increase access to motorized vehicle use. New or increased vehicle traffic will reduce the overall wildlife habitat security in this area. It would also negatively affect the wilderness experience of non-motorized recreationists accessing this roadless area.

Kelly Creek Cabin Special Use Permit Reissuance, Big Creek Road Maintenance, Laird Park Play Equipment Replacement and H30 Adam's Water Association Transmission Line and Spring Box Special Use Permit

In general, we do not have specific concerns with any of the aforementioned projects. We encourage you to take measures to incorporate best management practices, to limit impacts to streams, wetlands or waters of the U.S. and to minimize negative impacts to soils, recreation facilities, other public resources. The analysis must also consider the effects of any connected actions, consistent with current guidance from the Council on Environmental Quality.